1.

# APPENDIX 2

## Table of Nightcap Village Compliance with Relevant Provisions of the Tweed LEP 2000

# Nightcap Village compliance with relevant provisions of the Tweed Local Environment Plan 2000

| CLAUSE | PROVISION | RESPONSE |
|---|---|---|
| **4 / AIMS OF THE PLAN** | | |
| 4(a) | To give effect to the *Tweed Shire 2000+ Strategic Plan* | Nightcap complies with the vision and principles of the 2000+ Strategic Plan by retaining natural character promoting economic vitality, ecological integrity and developing the cultural fabric of the Shire. A detailed response to the Tweed 4/24 Plan is contained in Section 6 of this Volume. |
| 4(b) | Provide the legal basis for the making of development control plans | The Nightcap proposal is a staged development application under section 83B of The Environmental Planning and Assessment Act 1979, which sets out concept proposals for the development of the site and for which detailed proposals for separate parts of the site are to be the subject of subsequent development applications. The concept proposals are presented in the form of a Draft Development Control Plan in accordance with the Tweed LEP. |
| 4(c) | To give effect to the Tweed Shire 2000+ Strategic Plan | See 4(a) |
| 4(d) | To encourage sustainable economic development compatible with the area's environmental and residential amenity | Addressed in the Socio-economic Impact Statement by Prosperous Places in Volume 2. |
| **5 / ECOLOGICALLY SUSTAINABLE DEVELOPMENT** | | |
| 5(a) | The precautionary principle | Detailed environmental and infrastructure studies including flora, fauna, flood, bushfire and water cycle management provide a sound, conservative basis for development. |
| 5(b) | Inter-generational equity | Detailed environmental studies indicate that the proposal will not lead to long term environmental harm. Rehabilitation on-site including the Tweed River riparian corridor and conservation works on land adjoining the village will benefit the local environment. |
| 5(c) | Conservation of biological diversity | Detailed environmental studies indicate that there is no threat to biological diversity on or adjacent to the site. Existing vegetation is to be retained and supplemented. |
| 5(d) | Environmental costs<br>(i) polluter pays<br>(ii) users of service should pay for life cycle costs<br>(iii) environmental goals should be pursued in the most cost effective way | Capital, environmental and development costs arising from the development such as roads, bridges, footpaths, water storage, collection, treatment and recycling, sewerage treatment and disposal, landscaping, artworks, and site rehabilitation will be fully funded by the proponent. Life cycle costs will be funded by the proponent and the Nightcap Village Body Corporation. |
| **8 / CONSENT CONSIDERATIONS** | | |
| 8(1) | Consent authority may grant consent only if:<br><br>(a) It is satisfied that the development is consistent with the primary objective of the zone | The proposal is for a vibrant rural village which is entirely in keeping with the provisions of the 2(d) Village Zone. See clause 11 Zone 2(d) compliance details. Proposals for ancillary development in the 1(a) Rural Zone are allowable uses. See clause 11 Zone 1(a) compliance details. |
| | (b) It has considered other relevant aims and objectives of the plan | The proposal is consistent with other relevant aims and objectives of the plan as documented in this Appendix and in Volume 1. |
| | (c) It is satisfied that the development would not have an unacceptable cumulative impact on the community, locality, or catchment | Detailed studies indicate the Village will not have a detrimental cumulative impact and that the proposal has positive community benefits through care for the environment and economic and social benefits in an area of declining rural population and services. |
| 8(2) | The consent authority may grant consent to uses in Item 3 of the Zone Tables only if need is demonstrated | There are no uses proposed that are listed in Item 3 of the 2(d) Village or 1(a) Rural Zones. |

| **11 / ZONE 1(a) RURAL** | | |
|---|---|---|
| | Primary objectives<br><br>- To enable the ecologically sustainable development of land that is suitable primarily for agricultural or natural resource utilisation purposes and associated development<br><br>- To protect rural character and amenity | The development of Nightcap will, over time, see the greater use of adjoining land for community benefit – conservation and plantation forestry; woodlots for effluent disposal and conservation; use of the area adjacent to the town for the market garden; walking tracks, recreation, and camping for low key passive uses; will replace stock grazing activities over time. Refer to the report by Biolink on the integration of Nightcap Village with surrounding land use In Volume 2. |
| | Secondary objectives<br><br>- To enable other types of development that rely on the rural or natural values of the land such as agri- and eco- tourism<br><br>- To provide for development that is not suitable in or near urban areas<br><br>- To prevent the unnecessary fragmentation or development of land which may be needed for long-term urban expansion<br><br>- To provide non-urban breaks between settlements to give a physical and community identity to each settlement | Agri and eco-tourism is a primary objective for the rural land adjacent to Nightcap – see above.<br><br>Adjacent rural land is proposed to house water storage, the sewerage treatment plant, effluent disposal areas and all associated easements. These uses need separation from Village uses.<br><br>Subdivision of adjoining rural land is not proposed except to provide for ancillary uses as described above.<br><br>Not applicable. Rural area between Uki and Kyogle |
| | Development within the 1(a) Zone<br><br>Item 1 – allowed with consent:<br>- Agriculture<br>- Environmental facilities<br>- Forestry<br><br>Item 2 – allowed only with consent:<br>- Bed and breakfast<br>- Dwelling houses<br>- Multi-dwelling housing<br>- Any other buildings, works, places or land uses not included in Item 1, 3, or 4<br><br>Item 3 – allowed only with consent and must satisfy the provisions of clause 8<br><br>Item 4 – prohibited | Nightcap uses:<br>- Market garden<br>- Forestry for effluent disposal<br><br><br>Not applicable.<br>Not applicable.<br>Not applicable.<br>Includes the following in Nightcap Village: public utility undertakings for water storage, easements for water and sewer, sewerage plant.<br><br>No uses proposed in this category.<br><br>No uses proposed in this category. |
| | Zone 2(d) Village<br><br>Primary objective<br><br>- To provide for residential development and a full range of services and facilities traditionally associated with a rural village which is of a design and scale that makes a positive contribution to the character of the village | Nightcap principles mirror the primary objective of the zone. |

| | | |
|---|---|---|
| | Development within the 2(d) Zone<br><br>Item 1 – allowed with consent:<br>- Environmental facilities<br><br>Item 2 – allowed only with consent:<br>- Bed and breakfast<br>- Dwelling houses if each is on an allotment of at least 450m2<br>- Rural workers' dwellings<br><br>- Any other buildings, works, places or land uses not included in Item 1, 3 or 4<br><br>Item 3 – allowed only with consent and must satisfy the provisions of clause 8<br><br>Item 4 – prohibited | <br><br>Environmental facilities for Nightcap include boardwalks, observation decks, land vegetation and rehabilitation, erosion prevention.<br><br>Applicable.<br>Applicable.<br>Not applicable.<br><br>May include the following in Nightcap Village: boarding house (backpackers), car park, commercial premises, community building, display home, educational establishment, general store, home business, home industry, home occupation, hotel, integrated housing, light industry, market, multi-dwelling housing, outdoor eating area, place of assembly, place of public worship, public building, public utility undertaking, recreation area, recreation establishment, refreshment room (restaurant, café), reticulated sewerage system, rural industry, rural tourist facility, shop, tourist accommodation, tourist facilities, urban stormwater management facility, utility installation.<br><br>No uses proposed for this category.<br><br>No uses proposed for this category |
| **14 / DEVELOPMENT NEAR ZONE BOUNDARIES** | | |
| | Objectives<br><br>To provide land use flexibility where this is logical and appropriate<br><br>…(3) Development that would otherwise be prohibited may, with consent, be carried out on land…if the development may be carried out in the adjoining zone | <br><br>Bushfire protection zones are situated on the outside of 2(d) Village zone boundaries and there is a 50 metre residential development extension on the north side of Mebbin National Park Road where land is particularly suited to that purpose and is both logical and appropriate.<br><br>The quid pro quo is revegetation and rehabilitation of land within the Village boundaries and large amounts of public and environmental open space within the Village site (more than 40% of the Village zone area). |
| **15 / AVAILABILITY OF ESSENTIAL SERVICES** | | |
| | (2) Consent must not be granted to the carrying out of development on any land unless:<br>(a) a water supply and facilities for the removal or disposal of sewerage and drainage are available for that land, or<br>(b) arrangements satisfactory to the consent authority have been made for the provision of that supply and those facilities | Proper and environmentally responsible arrangements for water and sewerage supply, disposal and recycling have been proposed at the proponents cost. These facilities will be the subject of an ongoing monitoring program (refer Water Supply and Sewerage Assessment by Cardno in Volume 2). |
| **17 / SOCIAL IMPACT ASSESSMENT** | | |
| | Objectives<br><br>- To ensure proper consideration of development that may have a significant social or economic impact | The development of Nightcap Village will have a significant social and economic impact on the Nightcap/Kunghur locality. It will help arrest rural population and service decline and take some pressure off coastal growth. Social and economic impacts are detailed in full in the Social Impact Assessment contained in Volume 2. The Assessment addresses the requirement of DCP45 – Socio-economic impacts of development. |

| | | |
|---|---|---|
| **20 / SUBDIVISIONS IN ZONES 1(a), 1(b), 7(a), 7(d) and 7(l)** | | |
| | Objectives | |
| | - To prevent the potential for fragmentation of rural land | Apart from utility installations, no subdivision is proposed for the adjoining rural holding. |
| | - To protect ecological or scenic values | Ecology is protected in the proposal and the Village will have little impact on scenic values given its location in a natural bowl, riparian vegetation along the Tweed River and the limits of the 2(d) Village Zone. |
| | - To protect Tweed water supply quality | Water quality and resources will be protected by stormwater treatment and a self-reliant water supply and storage system. |
| **22 / DEVELOPMENT NEAR DESIGNATED ROADS** | | |
| | Objectives | |
| | - To protect and improve the capacity, efficiency and safety of designated roads | The Village will add traffic to the Kyogle – Uki Road and the development must contribute a fair share to road upgrading (refer to the traffic assessment in Volume 2 by Cardno). A roundabout centred in Kyogle Road is proposed as an alternative to a "T" intersection for Village access for safety reasons. This would provide for access to Nightcap Village and the Mebbin Springs development. This proposal will need Council support and the consent of The Road Traffic Authority. |
| | - To prevent development on designated roads that would detract from scenic attractiveness | There is no built development proposed on the Kyogle Road and scenic amenity is protected by trees along the riparian zone along the Tweed River. |
| | - To prevent or reduce the impact of traffic noise | Proposed residential development will be a minimum of 70 metres from Kyogle Road and visually separated by existing trees in the riparian zone along the Tweed River. |
| **24 / SET BACKS TO DESIGNATED ROADS** | | |
| | Minimum distance of 30 metres from a designated road to residential and other development | Minimum distance of 70 metres from Kyogle Road to residential uses. |
| **31 / DEVELOPMENT ADJOINING WATERBODIES** | | |
| | Objectives | |
| | - To protect and enhance scenic quality, water quality, aquatic ecosystems, bio-diversity and wildlife habitat and corridors | A riparian buffer of at least 50 metres is proposed along the Tweed River in accordance with DCP 16 – Subdivision Manual. This buffer would be conserved and rehabilitated by the removal of weeds and planting of indigenous species (refer to the Ecological Assessment in Volume 2). |
| | - To provide adequate public access to waterways | A pathway/boardwalk is planned for the northern Tweed River Riparian corridor. |
| | - To minimise the impact on development from known biting midge and mosquito breeding areas | Nightcap is not a recognised midge or mosquito breeding area. |

| | | |
|---|---|---|
| **34 / FLOODING** | | |
| | Objectives<br>- To minimise future potential flood damage<br>- To minimise the adverse effect of flooding on the community | The proposal is to protect flood prone land adjacent to the Tweed River by inclusion in the Riparian zone. The only exception is a pocket of low land in the south western portion of the site which is intended to be raised to connect residential land on either side. Development will be in accordance with the requirements of DCP 5 – Development of Flood Liable Land (refer to the Flood Report by Cardno in Volume 2). |
| **35 / ACID SULFATE SOILS** | | |
| | | Not Applicable to the Site |
| **39a / BUSHFIRE PROTECTION** | | |
| | Objectives<br>- To minimise bushfire risk to built assets and people and to reduce threat to ecological and environmental assets | The Village site is identified as Bushfire Prone land (Vegetation Category 1 and Buffer Zones) in the Tweed Shire Bushfire Prone Land Map 1. Bushfire management recommendations and asset protection zones for buildings and environment areas follow the relevant provisions of DCP 16 – Subdivisions manual and are contained in the Bushfire Management Plan Report by Cardno in Volume 2. |
| **40 / HERITAGE PROVISIONS** | | |
| | | There are no identified heritage or conservation areas or items on the Village site. |
| **44 / DEVELOPMENT OF LAND WITHIN LIKELY OR KNOWN ARCHAEOLOGICAL SITES** | | |
| | | There are no known archaeological sites on or near the subject land. More detailed investigations will be required in the preparation of Precinct Plans. |
| **52 / ZONE MAP OVERLAY PROVISIONS** | | |
| | | The Village site is not affected by any LEP overlay provisions. |